

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

U.S. BANK NATIONAL ASSOCIATION, *et al.*,

Plaintiffs,

Case No. 07-14064

v.

Hon. John Corbett O'Meara

TONACIDA MAJOR,

Defendant.

ORDER OF DISMISSAL

Defendant Tonacida Major filed papers purporting to remove this action to this court on September 26, 2007. This matter was originally pending as a landlord-tenant action in 36th District Court, Detroit, Michigan. The court entered a judgment of eviction against Major dated August 3, 2007. Major appealed to the Wayne County Circuit Court; it appears that the appeal was dismissed.

Thereafter, Major removed the action to this court, apparently adding as "plaintiffs" the Plaintiff's attorney and the state court judges presiding over the case, as well as the United States as a "defendant." Major also apparently requested that this matter be filed under seal, although the court finds no order in the record allowing the sealing of the papers. The docket does not reflect that the removal papers were served on any of the parties.

Pursuant to 28 U.S.C. § 1915(e)(2)(B), the court has reviewed Major's removal papers and attachments. The court "shall dismiss" the case if the court finds that it is "(i) frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B). A complaint is frivolous under § 1915 if it lacks an arguable basis in law or fact. Neitzke v. Williams, 490 U.S.

319, 325 (1989); Wilson v. Yaklich, 148 F.3d 596, 600 (6th Cir. 1998) (stating that complaints can be dismissed a frivolous “only when the claim is ‘based on an indisputably meritless legal theory,’ or where a complaint’s ‘factual contentions are clearly baseless’”).

The court finds that Major’s claims have no basis in law. There is no legal basis for removing a landlord-tenant dispute from a state district court. This court has no jurisdiction over such a dispute, including any state law claims Major attempts to assert now, pursuant to 28 U.S.C. § 1331 or § 1332. To the extent Major purports to assert constitutional or other federal claims, the court finds such claims frivolous. Major’s landlord-tenant dispute is a state court matter that must be resolved in state court. Although the court would normally remand matters that have been improvidently removed from state court, it is not clear to the court that a state court case remains pending.

Accordingly, IT IS HEREBY ORDERED that this matter is DISMISSED WITH PREJUDICE for failure to state a claim, as frivolous, and for lack of subject matter jurisdiction.

s/John Corbett O’Meara
United States District Judge

Date: October 23, 2007

I hereby certify that a copy of the foregoing document was mailed to the parties of record on this date, October 23, 2007, by U.S. mail.

s/William Barkholz
Case Manager